PTOL-413A (10-07)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 10/531,008 First Named Applicant: Boris Y. Shekunov

Examiner: Joseph W. Drodge Art Unit: 1797 Status of Application: Allowed

Tentative Participants:

(1) Randolph E. Digges, III (Applicant's counsel) (2) Joseph W. Drodge (Examiner)

(3) _____ (4) _____

Proposed Date of Interview: July 16, 2008 **Proposed Time:** 4:30 p.m. **AM/PM**

Type of Interview Requested:

(1) ☑ **Telephonic** (2) ☐ **Personal** (3) ☐ **Video Conference**

Exhibit To Be Shown or Demonstrated: ☐ **YES** ☑ **NO**

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) Rej.	1, 4 and 3-21	US 6,986,846	☐	☐	☐
(2)			☐	☐	☐
(3)			☐	☐	☐
(4)			☐	☐	☐

☑ Continuation Sheet Attached

Brief Description of Argument to be Presented:

In an Amendment dated May 14, 2008, applicants stated that they were contemporaneously submitting a terminal disclaimer under 37 C.F.R. §1.321 to obviate a non-statutory obviousness-type double patenting rejection of claims 1, 4 and 3-21 in view of claims 1-10 of U.S. Pat. 6,986,846. When reviewing the application upon receipt of the Notice of

An interview was conduction on the above-identified application on July 16, 2008 **.**

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

/Ranolph E. Digges, III/
Applicant/Applicant's Representative Signature

Randolph E. Digges, III
Typed/Printed Name of Applicant or Representative

40,590
Registration Number, if applicable

Examiner/SPE Signature

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Brief Description of Argument to be Presented (cont'd):

Allowance dated July 10, 2008, counsel of record for applicants noticed that the Terminal Disclaimer referenced in the Amendment dated May 14, 2008 had not been filed. Applicants desire a telephonic interview with the Examiner for the purpose of explaining why no terminal disclaimer should be required in this case inasmuch as the allowed claims are patentably distinct from claims 1-10 of U.S. Pat. 6,986,846.

Claim 1 of the present application relates to a method of producing particles in which a polymer, a wax and/or a lipid that is a solid at standard temperature and pressure is contacted with a supercritical fluid in the absence of any solvents to form a melt, the melt is then contacted with a solution comprising a solute dissolved in a solvent that is at least partially soluble in the supercritical fluid to form a mass comprising a melt-rich fraction comprising the melt, a first portion of the supercritical fluid and the solute, which is in the form of solid particles dispersed in the melt, and a supercritical fluid-rich fraction that comprises a second portion of the supercritical fluid and the solvent, and then the mass is expanded across a pressure drop into a collection vessel maintained above the boiling point of the solvent to evaporate the solvent and flash the supercritical fluid into a gas and thus form composite particles comprising the polymer, wax and/or lipid and the solute. Dependent claims 4-11 are directed to the use of particular polymers, waxes and/or lipids, supercritical fluids, solutes, solvents, amounts and resulting particle sizes.

Claim 13 of the present application differs from claim 1 in that the solvent in the supercritical fluid-rich fraction is extracted to form a solvent-free residual mass, which is then expanded across a pressure drop into a collection vessel to flash the supercritical fluid into a gas and thus form composite particles comprising the polymer, wax and/or lipid and the solute. Dependent claims 14-21 are directed to the use of particular polymers, waxes and/or lipids, supercritical fluids, solutes, solvents, amounts and resulting particle sizes.

In contrast, claim 1 of U.S. 6,986,846 is directed to a method of forming particles in which a load material is mixed with a first flow of supercritical fluid in a first mixing chamber having a primary mixing device disposed therein to form a melt, the melt is transferred from the first mixing chamber to a second mixing chamber having a secondary mixing device disposed therein where the melt is mixed with a second flow of supercritical fluid to form a lower viscosity melt, and then the lower viscosity melt is expanded across a pressure drop into an expansion chamber whereby the supercritical fluid converts to a gas and the load material is precipitated in the form of particles. Dependent claims 2-7 are directed to the type of apparatus and mixing devices used, the use of particular supercritical fluids and the composition of the load material. Claims 8 and 9 claim that a solvent is present in the first mixing chamber when the melt is initially formed (which is prohibited by claims 1 and 13 of the present case). Claim 10 claims that a solvent is added in the second mixing device after the melt has been transferred thereto, and that the particles are recovered in the expansion chamber as a suspension in the solvent (which is contrary to what is claimed in claims 1 and 13 of the present application).